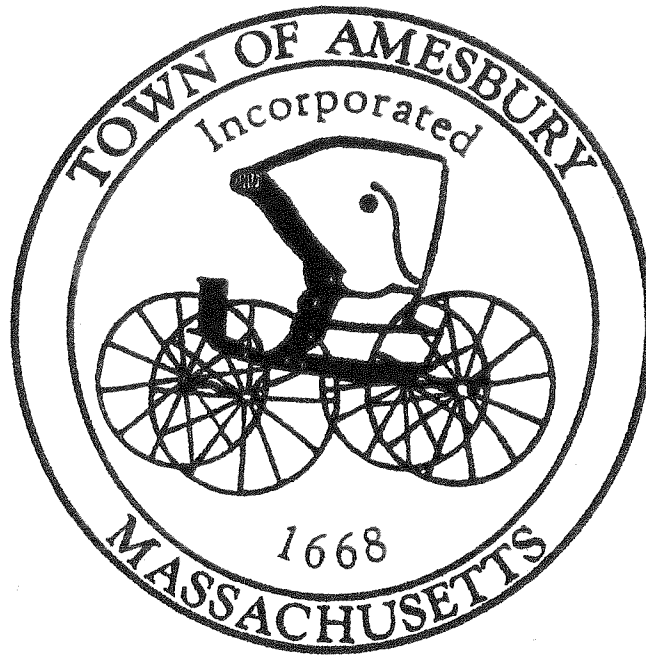


Amesbury Charter Commission



Final Report 1996

Respectfully submitted this fifth day of February, nineteen hundred and ninety-six.

Rosemary Leary, *Chairman*
Thomas K. Iacobucci, *Vice-Chairman*
John R. Carter, *Clerk*
Phyllis M. Rossi, *Treasurer*
Deborah M. Harris
Esther F. Headley
Geoffrey R. Butler
Donna Dowie-Pelletier
Kenneth W. Clark

Ballot Question and Summary

The following question will appear on the ballot at the 1996 Town Election Held on April 9, 1996.

Should this town approve the charter revision recommended by the Charter Commission, which is summarized below?

Yes _____

No _____

Summary:

The proposed charter provides for a council-mayor form of government. The legislative branch, the municipal council, would consist of nine councillors: there would be six councillors elected from districts and three councillors elected by the voters at-large. The municipal council would be elected to serve two year terms of office. The municipal council will elect a president to preside over its meetings. A mayor would be elected for two year terms of office to serve as the chief executive of the town. The town would elect six members of a school committee, the mayor would serve as the seventh member and act as chairperson. The town would also elect seven members of a planning board, nine members of board of library trustees, and four members of the housing authority. The members of school committee, planning board, board of library trustees, and the housing authority would serve terms of four years, so arranged that the terms of as nearly equal number of members expire at each regular election. The regular municipal election will be in November. The charter provides for the appointment of a chief financial officer to oversee town financial affairs, budget procedures, the ability to reorganize agencies, citizen relief mechanisms, preliminary election procedures and requirements of transition to the new form of government.

Introduction

At the regular Town Election held last April, the residents of Amesbury voted to form a Charter Commission to review town government and recommend to the voters any revisions deemed necessary.

In the ten months since our election, this Commission and its committees have met more than 50 times for the purpose of interviews, deliberation, and hearing from the voters of Amesbury. We set about an ambitious schedule of meetings with state and town officials; hiring a professional consultant and attorney; interviews with citizens and officials from other towns; reviewing charters from a broad cross-section of communities throughout the Commonwealth; and listening to the comments of any citizen who chose to attend one of our regular meetings, public hearings, or contacted an individual commission member.

During initial deliberations, we were hopeful that aspects of our current government structure might be preserved. As the process continued, however, it became more and more obvious to the Commission that minor adjustments would not responsibly address the problems in that structure. It should be noted for the record, however that no changes from our present structure were contemplated without debate -- often heated -- conducted in an open forum.

The Commission adopted as its guiding principles the need to ensure accountability, secure professionalism, and promote responsiveness throughout town government. These objectives are manifest throughout the accompanying charter proposal. Together, they reflect the Commission's goal that Amesbury should have a government structure that will meet the town's needs well into the twenty-first century.

Amesbury's first charter sought to consolidate authority under the town manager while maintaining the historic traditions of a volunteer board of selectmen and town meeting. Within the existing charter, the executive branch is split between the board of selectmen and the town manager. By looking back at the conflicts that have arisen between past town managers and boards of selectmen, we find that most have arisen because both have disagreed as to what their roles are and what direction the town should be headed in: this is like having two presidents trying to run the country with both blaming the other for problems and taking credit for successes.

This proposal addresses the lack of accountability and split direction in the executive branch by providing for a Mayor answerable directly to the voters. By giving the voters the opportunity to directly elect the town's chief executive officer, there will be no confusion as to who is accountable for the efficient management of the town; the proposal would also avoid costly buyouts of future town managers, as well as provide a single direction without first trying to get five individuals to agree.

This proposal recognizes the difficulties of trying to run a multi-million dollar municipal corporation with volunteers and a full-time administrator who is not directly answerable to the voters. This proposal addresses this problem by providing for a full-time executive who is answerable directly to the public via the ballot box. This proposal also recognizes the difficulties of having a volunteer legislative body, in the form of town meeting which only meets for a few hours two nights a year, and deals with this by providing for a smaller legislative body which meets monthly. The municipal council, by meeting more regularly, will be able to spend more time researching, debating, and discussing issues and thus, better reflect the changing needs of the community.

In 1980, the year our first charter commission was elected the year-round population of Amesbury was 13,972 and the budget for the town was \$12.5 million. Currently, those figures are 14,996 and \$22.2 million. By the year 2000 our population is expected to be closer to 16,000 and our budget \$25 million. Despite the doubling of the town's budget, there has been no corresponding review of our system of government. That is not to say that the past 15 years have been without operational changes. During this time, we have had nine full-time or acting town managers. We have had 16 different people serving as Selectmen, and we have had two Superintendents of Schools. The pressures created by the increase in population, along with the increase in the town's tax burden are not likely to abate in the near future. The Commission believes that its proposal will result in a government structure and budget process which is more consistent with modern accounting and management practices than the current charter allows for.

As required by law, the Charter Commission published its Preliminary Report in the Newburyport Daily News on December 12, 1995. In order to ensure an even more complete distribution to the voters, the Commission also printed additional copies of the Preliminary Report, and mailed one to every household in the town. The 10,000 copies distributed were intended to maximize public awareness of the Commission's preliminary conclusions. Since that time, we have held three public hearings in Town Hall (two of which were broadcast live on cable television) so that the Commission might hear directly from the voters what they liked -- and did not like -- about the draft proposal. Many of these comments have been incorporated into this Final Report, such as the initial salary level for the Mayor and councillors, and the process by which their salaries might be changed. Also the inclusion of a preliminary election preceding the election select the first Mayor and Councilors and the requirement of a periodic review of the charter by a committee appointed for that purpose.

We hope this proposal addresses your particular concerns about our town's government. If not, please know that the Commission has done its best to accommodate all the concerns that we have heard raised throughout our deliberations. Please also remember that, if it is adopted, the government structure proposed in this document could itself be changed: by a future Charter Commission; by the voters' approval of an initiative during an annual town election; or even by a vote of the Municipal Council (which would then be subject to voters' repeal by referendum).

The intent of this document is to offer the people of Amesbury a historic opportunity to make major changes in the manner in which the town is governed by adopting a new form of government and allow for one election in which to elect a chief executive officer and legislative body.

The future of Amesbury will depend on townspeople, business people and our public officials committing themselves to working together. We must all acknowledge the problems of the past and we must all take steps necessary to move forward. This proposal is one such step. It is based on a review of what has happened in Amesbury's past and what works in other communities.

The voters of Amesbury elected nine very diverse individuals to serve on their Second Charter Commission. Each of these individuals has contributed to this proposal in his or her own unique way. This recommendation is the result of an intensive 10-month process, during which the Commission tried to balance each of its member's views of town government as well as their hopes for Amesbury's future. We hope our proposal is worthy of your support.

EXPLANATION OF PROPOSED CHARTER AND STATEMENT OF MAJOR DIFFERENCES

THE CHARTER COMMISSION'S PROPOSAL PRESENTS A SIGNIFICANTLY DIFFERENT STRUCTURE THAN THE TOWN'S EXISTING FORM OF GOVERNMENT.

I. EXPLANATION OF PROPOSED REVISION (FORM OF GOVERNMENT)

The Amesbury Charter Commission Proposes the adoption of a Mayor-Council form of government. This Charter proposes an elected chief executive officer and a nine member elected legislative body. This structure would replace the traditional New England government of Selectmen-Town Meeting.

Under this proposal, the voters would continue to elect decision-makers and policy-makers, in the form of a Municipal Council. The voters, however, would be able to directly elect the town's chief executive officer, the Mayor. The Mayor would be responsible for the employment of professionals to carry out the day-to-day administration of town affairs. These professionals would be selected in much the same manner as the School Superintendent is currently, on the basis of education, training, and experience. The Council would have the ability to reject any such selection if they felt such candidate failed to meet these qualifications.

Concurrent with the adoption of this proposed form, the Board of Selectmen and the Town Manager's position would be abolished and their responsibilities would be held by the Mayor. The Town meeting would be abolished and their responsibilities would be held by the Municipal Council.

II. CHARTER DOCUMENT

The proposed structure would enable citizens to review, in one place, the entire basic structure of local government. The legislative body (the Municipal Council), the administrative structure, (Mayor), the basic budget process and the methods by which citizens may impact and influence local government (Referendum, Initiative, Recall, and Free Petition) are clearly spelled out in this proposal, the Final Report of the Second Charter Commission.

III. EXPLANATION OF MAJOR DIFFERENCES BETWEEN CURRENT STRUCTURE AND PROPOSED

EXECUTIVE BRANCH

The charter proposes the creation of the office of Mayor. The Mayor will be the chief executive officer of the community and replaces the Board of Selectmen and Town Manager. This position will be filled by the voters for a two year term. The Mayor shall be responsible for the daily operation and business of town government. The Mayor shall serve as the seventh member of the school committee and act as its chairperson. The Commission believes that Amesbury is a complicated "corporation" which requires management and administration by an individual responsible to and directly elected by the voters.

LEGISLATIVE BRANCH

The proposed charter replaces the 108 member Representative Town Meeting with a nine member Municipal Council, which would become the continuously sitting legislative body of the town. This council would meet, at a minimum, on a monthly basis, and this regularity would insure that they would be better informed and able to be responsive to local problems. The nine member municipal council, will be made up of six district councillors and three at-large councillors, all elected for two year terms. The council will serve as the town's legislative body with all the responsibilities and duties currently held by the town meeting. The smaller council will make it easier for the public to know who their elected representatives are while streamlining the legislative process. The Council would elect a president and vice-president and hire the town clerk., who would also serve as the clerk to the council, (the town clerk currently serves as clerk to the town meeting).

ELECTED OFFICIALS

Voters will continue to elect six members of a school committee, the Mayor would serve as the seventh member and act as its chairperson. The town would also elect seven members of a planning board, nine members of board of library trustees, and four members of the housing authority. The members of school committee, planning board, board of library trustees, and the housing authority would serve terms of four years, so arranged that the terms of as nearly equal number of members expire at each regular election. Currently the school committee and the library trustees are elected for three year terms; the planning board and housing authority are elected for five year terms. Additionally, the voters will elect the members of the Municipal Council and the Mayor, who will all serve for two year terms. The Hospital Trust Commission will be filled by appointment, and the offices of the Board of Selectmen, the Town Meeting Moderator and the Town Meeting Representatives are abolished.

FINANCIAL MANAGEMENT AND ADMINISTRATIVE ORGANIZATION

The charter proposal requires the creation of a Chief Financial Officer (CFO) position and the implementation of a coordinated budget process. This position will answer directly to the Mayor and will be responsible for the coordination of all financial aspects of town government. The Chief Financial Officer and the Superintendent of Schools are required to coordinate their budget planning activities. Financial planning, reporting to the town, and a new and more open budget development process are also required.

The charter proposal requires the development of a personnel system and a code of ethics for municipal employees, and for the reorganization of town administration in the future and requires in the transitional provisions that the existing structure be reviewed.

CITIZENS RIGHTS

Citizens of Amesbury are provided with broad rights to impact the workings of town government. An initiative petition procedure allows citizens to recommend the adoption of local laws which, if not enacted by the Municipal Council or the School Committee, would appear on the ballot for approval or rejection by all the voters. Measures passed by the Municipal Council and School Committee, with some specified exceptions, would be subject to referendum process, similar to that which now exists for certain actions of the town meeting. A process which allows for the recall of elected officials who have earned dissatisfaction of a majority of citizens is provided. The right of Free Petition provides and easy access to the Municipal Council, School Committee or any other Board, Committee or Commission for


any citizens or group of citizens to voice their concerns. Additionally, the charter provides for the holding of open meetings of the town and inspection of all public documents.

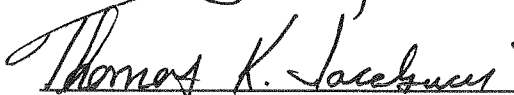
IV. CONCLUSIONS

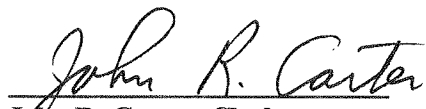
The Charter Commission is extremely grateful for the participation and contribution of the many members of our community, both in and out of government, who have given so generously of their time in our effort. The Commission would like to thank Rob Cook for his support and encouragement attending more than half of our meetings. The Commission would especially like to thank our families and loved ones for standing by us and supporting us as we have worked on this proposal for the last ten months.

It is the hope of the commission that our proposal has accurately addressed your concerns, and its our belief that these proposed changes in the structure of government for the Town of Amesbury provide the strong foundation for municipal management that will be necessary to meet the challenges of the twenty-first century, and beyond.


Respectfully Submitted, this fifth day of February, Nineteen Hundred and Ninety-six.


Rosemary Leary, Chairman


Thomas K. Iacobucci, Vice-Chairman

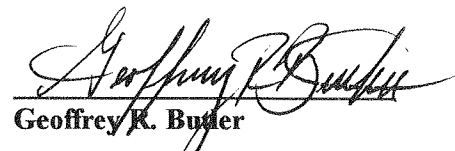

John R. Carter, Clerk


Phyllis M. Rossi, Treasurer


Kenneth W. Clark


Esther F. Headley


Deborah M. Harris


Geoffrey R. Butler


Donna Dowie-Pelletier

NOTES

PART I Incorporation, Short Title, Powers

Section 1-1 Incorporation Continued

The inhabitants of the Town of Amesbury, Massachusetts, within its territorial limits as now or may hereafter be established by law, shall continue to be a body politic and corporate, known as the "Town of Amesbury."

Section 1-2 Short Title

This instrument shall be cited and known as the Amesbury Home Rule Charter.

Section 1-3 Division of Powers

All legislative powers of the town shall be exercised by a municipal council. The administration of all fiscal, business and municipal affairs shall be vested in the executive branch under the mayor.

Section 1-4 Powers of the Town

The intent and purpose of this charter is to secure for the voters of the Town of Amesbury, through the adoption of this charter, all the powers possible to secure for their government under Article LXXXIX of the Amendments to the Constitution of the Commonwealth and laws of the commonwealth, as fully and as though each such power were specifically and individually enumerated herein.

Section 1-5 Form of Government

The Town of Amesbury shall have a city form of government.

Section 1-6 Interpretation of Powers

The powers of the Town under the charter shall be construed and interpreted liberally in favor of the Town, and the specific mention of any particular power is not intended to limit in any way the general powers of the Executive Officer

Part I

These sections are technical sections and provide a broad grant of power to the town and are intended to allow the town to take full advantage of municipal home rule.

Section 1-5 indicates that Amesbury will have a city form of government.

Part II

*Under this Part the
Office of the mayor is
established.*

*Section 2-1 the mayor
exercises the executive
powers of the town.*

PART II Chief Executive Officer; Mayor

Section 2-1 Office of the Mayor

(a) Mayor; Qualifications; Election

The chief executive officer of the town shall be a mayor, elected by and from the voters. Any voter shall be eligible to hold the office of mayor. The mayor shall devote full time to the office and shall not hold any other elective public office.

A mayor who shall cease to be a resident of the town during the term for which such mayor was elected shall be deemed to have vacated the office of mayor and the office shall be considered vacant. Any vacancy in the office of mayor shall be filled in accordance with Section 2-10.

(b) Term of Office

The mayor shall be elected for a term of two years beginning on the first town business day in January following the biennial election and until a successor is qualified.

(c) Compensation

The municipal council shall by ordinance establish an annual salary and expense schedule for the mayor. No ordinance increasing or decreasing such salary and expense schedule shall be effective however, unless it shall have been adopted during the first eighteen months of the term for which councillors are elected and the revised salary and expense schedule is to be effective upon the commencement of the next term of office of the mayor. The mayor shall receive no additional compensation from serving as the chairperson of the school committee as provided by section 4-3.

Section 2-2 Executive Powers of the Mayor

The mayor shall cause the laws, ordinances and orders for town government to be enforced, and shall cause a record of all official acts to be kept. The mayor may appoint one or more qualified assistants to aid in the performance of official duties, fix their salaries, and define their duties.

*Section 2-3 to 2-6 the
mayor appoints and
may remove personnel
and members of
boards and
commissions, subject to
a rejection of the
municipal council,
procedures are made
for temporary
appointments.*

Section 2-3 Appointments by the Mayor

The mayor shall appoint all town officers, department heads, and members of board, commissions, and committees for whom no other method of appointment or selection is provided by this charter, excepting only officials serving under the municipal council and school committee and persons appointed by state officials.

The mayor shall appoint the head librarian, but only from the candidates recommended by the board of library trustees. Unless otherwise provided by this charter, appointments of all town officers, department heads, and members of board, commissions and committees shall become effective fifteen days after submission of a written notice of any appointment to the town clerk, provided however, that the municipal council may, during such period, by a two-thirds vote of the full municipal council, reject any such appointment.

Section 2-4 Certificate of Appointment

In making appointments the mayor shall sign and file with the town clerk a certificate in substantially the following form: I appoint (name of appointee) to

the position of (name of office), and I certify that said person is qualified since said person (insert reason or reasons), to perform the duties of the said office , and I make this appointment solely in the interest of the town of Amesbury. This appointment shall not become effective until fifteen days following filing with the town clerk, in accordance with the Amesbury Home Rule Charter. (signed Mayor)

Section 2-5 Removal of Officials

The mayor may remove any person appointed by the mayor by filing a written statement with the town clerk setting forth in detail the specific reasons therefor, a copy of which shall be delivered or mailed to the person thus removed, who may make a written reply, which, if the person thus removed desires, may be filed with the town clerk; but such reply shall not effect the action taken unless the mayor so determines. This section shall not apply to the school committee, or persons appointed by state officials, nor offices subject to provisions of civil service.

Any removal by the mayor shall become effective fifteen days after submission of said written statement of removal to the town clerk, provided however, that the municipal council may, during such period, by a two-third vote of the full municipal council, reject any such removal and reinstate said person.

During any such fifteen-day period, any person removed by the mayor shall not be entitled to compensation and benefits.

Section 2-6 Temporary Appointments

Whenever a vacancy in an office appointed by the mayor occurs whether by reason of disability, death, resignation, or removal from office for any reason, the mayor may appoint the head of another town office or agency, or a town officer or employee, or some other person, to perform the duties of the office for a period not to exceed four months. Whenever a vacancy continues beyond the four months, the mayor may make a second four-month appointment, but no temporary appointment shall be continued beyond eight months.

Section 2-7 Communications to the Municipal council; Special Meetings of the Municipal council

Section 2-7 the mayor is required to have formal communications with the council.

(a) Communications to the Municipal Council

Within eight weeks following the start of each fiscal year, the mayor shall submit to the municipal council, and make available to the public a complete report on the financial and administrative activities of the town for the preceding fiscal year. The mayor shall provide on a quarterly basis written communications, to the municipal council, in order to keep the council fully informed as to the financial condition and future needs of the town and shall recommend such measures to it, as in the judgment of the mayor, the needs of the town require.

(b) Call for Special Meetings of the Municipal Council

The mayor may at any time, call a special meeting of the municipal council by causing a notice of such meeting specifying the matters which the mayor desires to be considered to be left at the usual place of residence or business of each council person, or given to such councillors in hand. Such notice shall, except in

an emergency of which the mayor shall be the sole judge, be delivered at least forty-eight hours in advance of the time set for such meeting and shall specify the purpose or purposes for which the meeting is to be held.

Section 2-8 the mayor may veto measures approved by the council.

Section 2-8 Approval of Veto by the Mayor

Every measure relative to the affairs of the town adopted by the municipal council, except:

- (a) measures relating to the internal affairs of the municipal council
- (b) memorial or other resolutions
- (c) emergency measures passed in accordance with provisions of this charter
- (d) the budget for the operation of town government

shall be presented to the mayor for approval. If the mayor does approve of it, the mayor shall signify such approval by signing it. If the mayor does not approve of it, the mayor shall signify disapproval by returning it, with objections in writing, to the municipal council. The municipal council shall enter the objections of the mayor upon its records and shall, forthwith, reconsider its vote upon the measure.

If, on such reconsideration two-thirds of the full municipal council agree to again pass the measure, the measure shall be considered approved. If any measure is not returned by the mayor within ten days following the day it is presented to the mayor, it shall be considered approved. If the municipal council has not voted to again pass the measure within twenty days following the date the measure is returned to the municipal council, the measure shall be rejected. All votes taken by the municipal council following the return of a measure by the mayor shall be taken by a call of the roll. A filing with the clerk of the council shall be deemed to be a return by the mayor to the municipal council.

Section 2-9 If the office of mayor is vacant, the council president serves as mayor.

Section 2-9 Temporary Absence of the Mayor

Whenever by reason of sickness, absence from the town or other cause, the mayor shall be unable to attend to the duties of the office of mayor, for any period of three successive work days, the president of the municipal council, or in the event of his disability, then the vice-president of the municipal council shall, act as mayor, possess the powers of the mayor but only on those matters not admitting to delay. During any period in which the president or vice-president of the municipal council is serving as acting mayor, such person shall not serve as the presiding officer of the municipal council.

Section 2-10 Vacancy in the Office of Mayor

If a vacancy occurs in the office of mayor, by death, resignation, or removal from office at any time preceding the end of the term for which the mayor was elected, the president of the municipal council shall become acting mayor. If the president of the council is unable to serve, the vice president of the municipal council shall become acting mayor. If the vice president of the council is unable to serve as acting mayor, the clerk of the council shall forthwith call a special meeting of the municipal council, and the municipal council shall elect by majority vote one of its members as acting mayor for the remainder for the unexpired term. Upon qualification of the president or vice president or the election and qualification of any member of the municipal council as acting mayor under the provisions of this section, a vacancy shall exist in the seat of the councillor selected as acting mayor.

PART III Legislative Branch

Part III

Section 3-1 Composition; Eligibility; Election and Term

Section 3-1 a nine member municipal council is to be elected for terms of two years.

(a)Composition

There shall be a municipal council composed of nine members that shall exercise the legislative powers of the town. Three members, to be known as councillors-at-large, shall be nominated and elected by and from the voters at large. Six members, to be known as district councillors, shall be nominated and elected by and from the voters of each district, one such district councillor to be elected from each of the six council districts into which the town is divided in accordance with section 7-5.

(b)Eligibility

Any voter shall be eligible to hold the office of councillor-at-large. A district councillor shall at the time of election be a voter and resident of the district from which the councillor is elected.

A councillor-at-large who shall cease to be a resident of the town during the term for which such councillor was elected shall be deemed to have vacated the office of councillor-at-large and the office shall be considered vacant. A district councillor who shall move from one district to another during the term of office for which such councillor was elected, shall continue to serve for the balance of the term for which the district councillor was elected. Any vacancy in the office of councillor-at-large or district councillor shall be filled in accordance with Section 3-4.

(c)Election and Term

The term of office of municipal council members shall be for two years beginning on the first town business day of January following the biennial election, and continuing until their successors are qualified.

Section 3-2 Council Organization

After the councillors-elect have taken the oath of office, the municipal council shall be called together by the town clerk for the purpose of conducting an election among council members for the office of municipal council president and vice-president to serve at the pleasure of the municipal council. The president shall preside at all meetings of the municipal council, perform ceremonial functions and perform such other functions as may be assigned by this charter, by ordinance or by vote of the municipal council. The vice-president shall perform all duties of the council president during the council president's absence or disability.

Section 3-2 to 3-4 these sections are technical and concerned with the council internal organization.

Section 3-3 General Powers and Duties

Except as otherwise provided by law or by this charter, all powers of the town shall be vested in the municipal council that shall provide for their exercise and for the performance of all duties and obligations imposed on the town by law.

Section 3-4 Filling of Vacancies

If a vacancy occurs in the office of municipal councillor, whether by failure to elect or otherwise, the remaining councillors shall, within thirty days following

the date such vacancy is declared to exist, fill said vacancy. The municipal council in the filling of any vacancy shall choose the defeated candidate for the seat in which the vacancy is declared to exist at the last regular town election immediately preceding the date the vacancy is declared to exist, provided however, that the defeated candidate for the office of councillor-at-large or the office of district councillor shall have received at least twenty-five percent of the total votes casts for the office of councillor-at-large or for the office of district councillor. If there was no other candidate for said office of councillor at large or district councillor, or the defeated candidate shall not have received a sufficient number of the total votes cast, the municipal council may at their discretion choose from among the voters entitled to vote for such office. Any person so chosen shall take the oath of office and commence to serve forthwith. No vacancy shall be filled, in the manner herein before provided, if a regular town election is to be held within 120 days following the date the vacancy is declared to exist. The municipal council shall be the sole judge of whether a vacancy shall exist in the office of municipal councillor and may declare an office vacant by a majority vote of the council.

*Section 3-5
the municipal council is
responsible for the
exercise of legislative
powers.*

Section 3-5 Exercise of Powers; Quorum; Rules of Procedure

(a) Exercise of Powers

Except as otherwise provided by the laws of the Commonwealth or this charter, the legislative powers of the municipal council may be exercised in a manner determined by it.

(b) Quorum

A quorum shall be a majority of the full municipal council. The affirmative vote of a majority of the full municipal council shall be necessary to adopt any appropriation order. Except as otherwise provided by the laws of the commonwealth or this charter, any other motion or measure may be adopted by a majority vote of those present.

(c) Rules of Procedure

The municipal council shall from time to time establish written rules for its proceedings. Regular meetings of the municipal council shall be held at a time and place fixed by ordinance but shall be not less frequent than once monthly; provided however, that the council president may suspend meeting during the month of July or August. Special meetings of the municipal council may be held on the call of the president of the municipal council, or on the call of any three members, by written notice delivered to the town clerk at least forty-eight hours in advance of the time set. Except as otherwise authorized by the laws of the commonwealth all sessions of the municipal council shall be open to the public and an agenda of any regular or special municipal council meeting shall be posted in the office of the town clerk and on the town bulletin board at least forty-eight hours prior to any such meeting. Such posting shall not preclude the municipal council from the introduction of additional agenda items as allowed by the municipal council's rules of procedure. Every matter coming before the municipal council for action shall be put to a vote, the result of which shall be duly recorded. All municipal council votes on ordinances, appropriation orders, or loan authorizations shall be taken by roll call vote, and shall be duly recorded. A full, accurate, and up-to-date record of the proceedings of the

municipal council shall be kept by the municipal council and shall be open to inspection by the public. The rules of procedures of the municipal council shall provide for a period of public comment at regular meetings of the municipal council. Any members of the municipal council or the mayor may submit an item or measure to the municipal council for consideration.

Section 3-6 Town Clerk and Council Staff

The municipal council shall appoint a town clerk who shall also be the clerk to the municipal council, and may employ such staff and retain such assistance as is necessary to conduct the business of the municipal council. The municipal council shall set the compensation of such staff.

Section 3-6

the municipal council selects the town clerk.

Section 3-7 Measures; Emergency Measures; Objection; Publication of Measures

Section 3-7 to 3-8

these sections are concerned with the exercise of power by the council.

(a) In General

No measure shall be passed finally on the date on which it is introduced, except in cases of special emergency involving the health or safety of the people or their property. Except as otherwise provided by this charter, every adopted measure shall become effective at the expiration of fifteen days after adoption or at any later date specified therein. Measures not subject to referendum shall become effective upon adoption. No ordinance shall be amended or repealed except by another ordinance adopted in accordance with this charter, or as provided in the initiative and referendum procedures.

(b) Emergency Measures

An emergency measure shall be introduced in the form and manner prescribed for measures generally except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing its scope and nature in clear and specific terms. A preamble that declares and defines the emergency shall be separately voted on and shall require the affirmative vote of two-thirds of the municipal council. An emergency measure may be passed with or without amendment or rejected at the meeting at which it is introduced. No measure making a grant, renewal or extension, whatever its kind or nature, or a franchise or special privilege shall be passed as an emergency measure, and except as provided by the laws of the commonwealth, no such grant, renewal or extension shall be made otherwise than by ordinance. After its adoption, an emergency measure shall be published as prescribed for other adopted measures. An emergency measure shall become effective upon adoption or at such later time as it may specify.

(c) Objection

On the first occasion that the question on adoption of a measure is put to the municipal council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the municipal council whether regular or special. If one member shall further object, such postponement shall be until the next regular meeting; but for an emergency measure at least three members must object. This procedure shall not be used more than once for any measure notwithstanding any amendment to the original measure.

(d) Publication of Measures

Upon final passage, notice of the subject matter of every ordinance, appropriation order, or loan authorization shall be published in at least one newspaper of general circulation within the town and posted on the town bulletin board. Any such publication notice required shall state the summary of the finally enacted ordinance or ordinances, appropriation order, or loan authorization, and the times and places at which copies of such measures may be obtained or reviewed by the public and copies shall be permanently filed at the public library and with the town clerk. The municipal council shall annually prepare a document describing the actions of the council in the preceding fiscal year which shall include the text of every ordinance, appropriation order, or loan authorization.

Section 3-8 Inquiries and Investigations

The municipal council or a subcommittee of it may require any town officer, employee or member of a board, commission or committee to appear before it, and give such information as it may require in relation to an office or position held by such person, its function, and performance. The municipal council shall give at least forty-eight hours written notice of the general scope of the inquiry which is to be made to any person it shall require to appear before it under this section.

The municipal council may make investigations into the affairs of the town and into the conduct of any town agency, and for this purpose may subpoena witnesses, administer oaths and require the production of evidence.

*Section 3-9
councillors may only
serve as members of
the council and are
prohibited from
holding other offices.*

Section 3-9 Delegation of Licensing Powers

The municipal council may delegate to one or more town boards, committees, commissions or departments, the powers vested in the municipal council by the laws of the commonwealth to grant and issue licenses and permits, and may regulate the granting and issuing of licenses and permits by any such town board, committee, commission, or department and may at its discretion, rescind any such delegation without prejudice to any prior action which has been taken.

*Section 3-10 to 3-11
the method of
establishing
compensation is
established and the
council is prohibited
from involvement in
administrative affairs.*

Section 3-10 Prohibitions

No councillor shall, while a member of the municipal council, hold any other office, including membership on a board, commission or committee, or position under the town. No former councillor shall hold any compensated appointive office or employment under the town until one year after the expiration of his service on the municipal council. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of the municipal council from returning to such office or employment following service as a member of the municipal council.

Section 3-11 Compensation; Expenses

The municipal council shall by ordinance, establish an annual expense allowance and salary for its members. Except as provided by this section, members of the municipal council shall receive no other compensation or benefits from the town.

No ordinance increasing such salary or expense allowance shall be effective however, unless it shall have been adopted by a four-fifths vote of the full municipal council during the first eighteen months of the term for which

councillors are elected and the revised salary and expense schedule is to be effective upon the commencement of the terms of office of the next municipal council to be elected.

Section 3-12 Involvement in Administrative Affairs

Except as may be otherwise authorized by this charter, no member of the municipal council, nor any committee of the municipal council shall directly take part in the conduct of the administrative business of the town.

Part IV

other elected town officials are a six member school committee (the mayor serves as the seventh member); a seven member planning board, a nine member board of library trustees, and four members of the housing authority. These elected officials serve a four year term.

PART IV

Other Elected Officials

Section 4-1 Elected Officer in General

In addition to the mayor and municipal council, the offices to be filled by the voters shall be a school committee, a planning board, a board of library trustees, housing authority and such other regional authorities, districts, or committees as may be established by law or inter-local agreement. The school committee, planning board, board of library trustees, and housing authority shall be nominated and elected by and from the voters at large and their terms of office shall begin on the first town business day of January following the biennial election, and continuing until their successors are qualified.

Section 4-2 Eligibility

Any voter shall be eligible to hold elective town office provided that no person shall simultaneously hold more than one elective town office, and no elected officer shall hold an appointed town position or be otherwise employed by the town as may be otherwise provided for by this charter.

Section 4-3 School Committee

(a) Composition, Term of Office

There shall be a school committee composed of seven members; six members shall be nominated and elected by and from the voters at large. The mayor shall be the seventh member of the school committee and shall be the chairperson of the committee. The term of office of six school committee members shall be for four years. Terms of office shall be so arranged that the terms of as nearly an equal number of members as is possible expire at each regular election.

(b) Powers and Duties

The school committee shall have general charge of the public schools of the town. The school committee shall have the power to select and to terminate a superintendent of schools, establish educational goals and policies for the schools consistent with the requirements of the laws of the commonwealth and standards established by the commonwealth. The school committee shall have all the powers and duties given to school committees by the laws of the commonwealth.

Section 4-4 Planning Board

(a) Composition; Term of Office

There shall be a planning board consisting of seven members elected for four-year terms. Terms of office shall be so arranged that the terms of as nearly an equal number of members as is possible expire at each regular election.

(b) Powers and Duties

The planning board shall make studies and prepare plans concerning the resources, possibilities and needs of the town. The planning board shall have the power to regulate the subdivision of land within the town by the adoption of rules and regulations governing such development. The planning board shall annually report to the town giving information regarding the condition of the town and any plans or proposals known to it affecting the resources, possibilities and needs of the town. The planning board shall have all of the powers and duties given to

planning boards under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by ordinance or by other municipal council vote.

Section 4-5 Board of Library Trustees

(a) Composition, Term of Office

There shall be board of library trustees consisting of nine members elected for terms of four years. Terms of office shall be so arranged that the terms of as nearly an equal number of members as is possible expire at each regular election.

(b) Powers and Duties

The board of library trustees shall have the custody and management of the library and of all property of the town related thereto. All money raised or appropriated by the town for its support and maintenance shall be expended by the board, and all money or property that the town may receive by gift or bequest shall be administered by the board in accordance with the provisions of such gift or bequest. The board of library trustees shall recommend candidates for the position of head librarian. The board of library trustees shall have all of the powers and duties given to boards of library trustees under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by ordinance or by other municipal council vote.

Section 4-6 Housing Authority

(a) Composition, Term of Office

There shall be a housing authority composed of five members; four members shall be nominated and elected by and from the voters at large; the fifth member shall be appointed in accordance with the laws of the commonwealth. The term of office of four members elected by the voters shall be four years. Terms of office shall be so arranged that term of office of two members shall expire at each regular election.

(b) Powers and Duties

The housing authority shall make studies of the housing needs of the town and shall provide programs for housing. The housing authority shall have all the powers and duties given to housing authorities under the laws of the commonwealth.

Section 4-7 Vacancy in Elected Offices

If a vacancy occurs in the membership of the school committee, planning board, board of library trustees, or housing authority, whether by failure to elect or otherwise, the president of the municipal council shall within thirty days following the date such vacancy is declared to exist, call a joint meeting of the municipal council and the board, commission or committee on which such vacancy shall exists for the purpose of filling said vacancy. At any such joint meeting a majority of those present and voting shall choose the defeated candidate for the seat in which the vacancy is declared to exist at the last regular town election immediately preceding the date the vacancy is declared to exist, provided however, that the defeated candidate shall have received at least twenty-five

percent of the total votes casts for that office. If there was no other candidate for said office, or the defeated candidate shall not have received a sufficient number of the total votes cast, the municipal council and such other board, commission or committee may, at their discretion, choose from among the voters entitled to vote for such office. Any person so chosen shall take the oath of office and commence to serve forthwith. No vacancy shall be filled, in the manner herein before provided, if a regular town election is to be held within 120 days following the date the vacancy is declared to exist. If a vacancy is filled under this section, the term of office of which shall continue beyond the next regular election, the person chosen to fill said vacancy shall only serve until such next regular election. At such regular election the unexpired balance of the term of office shall be filled by the voters. The municipal council shall be the sole judge of whether a vacancy shall exist in the office of any elected office under this section, and may declare any such elected office vacant by a majority vote of the council.

Section 4-8 Prohibitions

No elected member of the school committee, board of library trustees, planning board or housing authority shall hold any compensated appointive office or employment under the town until one year after the expiration of the term of office of such elected member. This provision shall not prevent a town officer or employee who has taken a leave of absence from such duties in order to serve as a member of such elected office from returning to such employment or office following service as a elected member of the school committee, board of library trustees, planning board or housing authority.

PART V Financial Procedures

Section 5-1 Budget Policy

The mayor after consultation with the members of the municipal council, school committee, and others deemed appropriate by the mayor, shall call a meeting of the municipal council prior to the commencement of the budget process to review the financial condition of the town, revenue and expenditure forecasts and other relevant information. The purpose of the meeting is to provide information on the financial condition of the town. The mayor shall be assisted by the chief financial officer established under Section 6-3 of this charter, in performing this responsibility.

Section 5-2 Submission of Operating Budget; Budget Message

In accordance with the laws of the commonwealth before the commencement of the ensuing fiscal year, the mayor shall submit to the municipal council a proposed operating budget for all town agencies for the ensuing fiscal year with an accompanying budget message and supporting documents. The budget message submitted by the mayor shall explain the budget in fiscal terms and in terms of work programs for all town agencies. It shall outline the proposed fiscal policies of the town for the ensuing fiscal year; describe important features of the proposed operating budget and indicate any major variations from the current budget, fiscal policies, expenditures and revenues together with reasons for such change. The proposed operating budget shall provide a complete fiscal plan of all town funds and activities and shall be in the form the mayor deems desirable.

The operating budget as adopted by the school committee shall be submitted to the mayor at least thirty days prior to the submission of the proposed operating budget to the municipal council. The mayor shall notify the school committee of the date by which the operating budget of the school committee shall be submitted to the mayor. The chief financial officer shall coordinate the preparation of the budget preparation process with the superintendent of schools and the school committee's budget process in accordance with the laws of the commonwealth.

Section 5-3 Action of the Budget

(a) Public Hearing

The municipal council shall publish, in at least one newspaper of general circulation in the town, a summary of the proposed operating budget as submitted by the mayor by a notice stating: (1) the times and places where copies of the entire proposed operating budget are available for inspection by the public, and (2) the date, time and place not less than fifteen days after such publication, when a public hearing on said proposed operating budget will be held by the municipal council. For the purpose of this section, the summary of the proposed operating budget that is required to be published shall contain proposed appropriations, funding sources and any narrative summary deemed necessary by the municipal council.

(b) Adoption of the Budget

The municipal council shall adopt the operating budget, with or without amendments, within forty-five days following the date the budget is filed with the clerk of the council. In amending the operating budget, the municipal council

Part V

part V provides for detailed financial procedures for the town.

Procedures are provided for the submission of an operating budget, a budget hearing process, a formalized financial planning process requiring financial forecasting and the development of a capital budget. Documents are also to be made available to the public.

may delete or decrease any amounts except expenditures required by law, but except on the recommendation of the mayor, the municipal council shall not increase any item in or the total of the proposed operating budget, unless otherwise authorized by the laws of the commonwealth.

If the municipal council fails to take action with respect to any item in the operating budget within forty-five days after receipt of the budget, such amount shall, without any action by the municipal council become a part of the appropriations for the year, and be available for the purposes specified.

Section 5-4 Financial Planning

(a) Financial Planning Practices

The chief financial officer established in accordance with Section 6-3, shall assist the mayor in financial planning and shall annually prepare a capital improvements program and a financial forecast. The capital improvements program and a financial forecast shall be prepared under the direction of the mayor, and shall be submitted to the municipal council and shall be available to the public for inspection.

(b) Capital Improvements Program

The chief financial officer shall annually prepare and submit a capital improvement program to the municipal council at least ninety days prior to the date for submission of the operating budget, unless some other time is provided by ordinance. The capital improvement program shall include: an itemization of all capital improvements proposed to be undertaken for at least five fiscal years: supporting data; cost estimates; method of financing; estimated effect of such plan on the tax rate; and other features as deemed necessary by the mayor or requested by the municipal council.

(c) Financial Forecast

The chief financial officer shall annually prepare a long-term financial forecast of town revenue, expenditures and the general financial condition of the town. The forecast shall include, but not be limited to, an identification of factors which will impact on the financial condition of the town, revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town.

Section 5-5 Annual Audit

The municipal council shall provide for an annual audit of the books and accounts of the town and the school department to be made by a certified public accountant, or firm of certified public accountants who shall have no personal interest, direct or indirect in the fiscal affairs of the town government. The municipal council shall publish in at least one newspaper of general circulation in the town a notice stating the availability of the final audit report for public inspection.

Section 5-6 Public Access to Financial Documents

Copies of the annual budget, capital improvements program, financial forecast, and the annual audit shall be available for public inspection and copies of such documents shall be filed in the office of the town clerk and the library.

PART VI ADMINISTRATION OF TOWN GOVERNMENT

Section 6-1 Administrative Organization

(a) Organization of Town Agencies

The organization of town government into operating agencies for the provision of services and the administration of government may, be accomplished through either of two methods provided for in Section 6-1 (a) (1) and (2). Subject only to the express prohibitions of the laws of the commonwealth or the provisions of this charter the town may organize operating agencies as deemed in the best interest of the town.

(1) Organization by Ordinance

The municipal council may by ordinance reorganize, consolidate, create, merge, divide or abolish any town department or agency, in whole or in part, establish such new town agencies as deemed necessary or advisable, and prescribe the functions and the administrative procedures to be followed by all such agencies.

(2) Executive Reorganization Plans

The mayor may by administrative order reorganize, consolidate, create, merge, divide or abolish any town department or agency, in whole or in part, establish such new town agencies as the mayor deems necessary or advisable, and prescribe the functions and the administrative procedures to be followed by all such agencies.

Administrative orders made by the mayor shall become effective on the thirtieth day following the day on which notice of the proposed administrative order is filed with the municipal council, unless the municipal council shall within such period by majority of the full municipal council vote to reject such administrative order or has sooner voted to affirm it.

(b) Publication of Reorganization Plans

For the convenience of the public, copies of reorganizations plans adopted under this section shall be filed in the office of town clerk and shall be printed as an appendix to the ordinances of the town.

Section 6-2 Management of Human Resources

The mayor shall adopt rules and regulations establishing a personnel system. The personnel system shall make use of current concepts of personnel management and may include, but not be limited to, the following elements: a method of administration; personnel policies indicating the rights, obligations and benefits of employees; a classification plan; a compensation plan; a method of recruiting and selecting employees based upon merit principles; a centralized record keeping system; a performance appraisal system; disciplinary procedures; and other elements that are determined necessary.

Unless otherwise provided by this charter, all town agencies and positions shall be subject to the rules and regulations adopted under this section excluding those of the school department.

*Part VI
part VI provides for a
process to allow for
future reorganization of
government. This
section also provides
for the development of
a human resources
system which will be
based on merit
principles.*

Rules and regulations adopted by the mayor shall become effective on the fifteenth day following the day on which notice of the rules and regulations are filed with the municipal council, unless the municipal council shall within such period by a two-thirds vote of the full municipal council vote to reject such rules and regulations.

Section 6-3 this section establishes a chief financial officers position responsible for the management of all financial affairs of the town.

Section 6-3 Department of Administration and Finance

(a) Department Established

There shall be a department of administration and finance under the direction of a chief financial officer. The chief financial officer shall be appointed by and responsible to the mayor. The chief financial officer shall be a person especially qualified by education, experience and training to perform the duties of the office. The mayor may from time to time establish such additional qualifications as deemed necessary and appropriate.

(b) Responsibilities of the Chief Financial Officer

The chief financial officer shall be responsible for the coordination of all financial services and activities; maintenance of all accounting records and other financial statements; payment of all obligations; receipt of all funds due; assistance to all other town agencies in any matter related to financial affairs; monitoring of expenditures of all funds, including periodic reporting to appropriate agencies on the status of accounts; maintaining a full and complete inventory of town real and personal property; acting as the chief procurement officer; supervision of all data processing or information management functions, unless otherwise provided, and any other matter relating to municipal finances as may be determined necessary or desirable. The chief financial officer shall assist the mayor with the preparation of an annual operating budget, financial forecasts, capital improvement program and other financial matters. The chief financial officer shall also keep the mayor fully informed as to the financial condition of the town and make recommendations as deemed necessary and perform such other duties as necessary or as may be assigned.

The chief financial officer shall supervise the offices and functions of the town accountant; treasurer, and collector. The chief financial officer shall also direct and supervise the daily operations of the board of assessors' office, provided however, that the board of assessors shall continue to have the other powers, duties and responsibilities which are given to boards of assessors under the laws of the commonwealth. The chief financial officer may serve as the town accountant or the treasurer but may not serve as both officers.

The department of administration and finance may be restructured in accordance with Section 6-1 (1)(2) of this charter.

Section 6-4 this section provides for the liquor licensing commission which is composed of three members.

Section 6-4 Liquor Licensing Commission

There shall be a liquor licensing commission established in accordance with the laws of the commonwealth, provided however, any member appointed to the commission may only serve one term of office.

PART VII

NOMINATIONS AND ELECTIONS

Part VII

this part provides for the regular municipal election to be held in November of odd number years. This section also provides for a preliminary election to be held prior to the November election.

Section 7-1 Town Elections; General and Preliminary

The regular town election shall be held on the first Tuesday following the first Monday in November of each odd-numbered year.

On the seventh Tuesday preceding every regular town election, there shall be held a preliminary election for the purpose of nominating candidates.

Section 7-2 Preliminary Elections

(a) Signature Requirements

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: for the office of mayor the signature requirement shall be not less than 50; for the office of councillor-at-large the signature requirement shall be not less than 50; for the office of district councillor the signature requirement shall be not less than 25 signatures from said district; and, for the offices of school committee member, planning board member, member of the board of library trustees and housing authority member, the signature requirement shall be not less than 50 signatures.

(b) Ballot Position

The order in which names of candidates appear on the ballot for each office shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend such drawings.

The town clerk shall provide notice to candidates of their ballot position.

(c) Determination of Candidates for Election

The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to assure its validity.

If two or more persons are to be elected to the same office at such regular election, the several persons in number equal to twice the number to be so elected receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names may be printed on the official ballot.

If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes, which but for said tie vote would entitle a candidate receiving the same to have such candidate's name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence thereof, there be printed on such ballots the names of candidates exceeding twice the number to be elected.

(d) Nomination of candidates

If at the expiration of the time for filing petitions of candidates to be voted for at any preliminary election, not more than twice as many such petitions have been

filed with the town clerk for an office as are to be elected to such office, the candidates whose petitions have thus been filed shall be deemed to have been nominated to said office and their names shall be voted on for such office at the succeeding regular election, and the town clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made.

Section 7-3 Regular Election

(a) Information to Voters

For any candidate in a regular town election who is an elected incumbent of the office which is sought, against the candidate's name shall appear the phrase "candidate for re-election."

(b) Ballot Position

The order in which names of candidates appear on the ballot for each office in a regular town election shall be determined by a drawing by lot conducted by the town clerk in the presence of such candidates or their representatives as may choose to attend.

Section 7-4 Districts

The territory of the town shall be divided into six districts so established as to consist of as nearly equal a number of inhabitants as it is possible in compact and contiguous territory; bounded insofar as possible by the center line of known streets or ways or by other well-defined limits. Each district shall be composed of voting precincts established in accordance with the laws of the commonwealth.

Section 7-5 Application of State Laws

Except as expressly provided in this charter and authorized by laws of the commonwealth, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary and regular and special elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results.

Section 8-1 Free Petition

The municipal council or the school committee shall hold a public hearing and act with respect to every petition which is addressed to it, which is signed by one hundred and fifty voters or more, and which seeks the passage of a measure. The hearing shall be held by the municipal council or the school committee, or, in either case, by a committee or subcommittee thereof, and the action by the municipal council or the school committee shall be taken not later than six weeks after the petition is filed with the clerk of the council or the secretary of the school committee, as may be appropriate. Hearings on two or more petitions filed under this section may be held at the same time and place. The clerk of the council or the secretary of the school committee shall mail notice of the hearing to the ten persons whose names appear first on the petition at least seven days prior to the hearing. Notice, by publication, of all such hearings shall be at public expense.

Section 8-1 a right of free petition is provided, allowing voters to petition the council or school committee to consider a matter.

Section 8-2 Citizen Initiative Measures**(a) Commencement of Proceedings**

Initiative procedures shall be started by the filing of an initiative petition with the town clerk. The petition shall be addressed to the municipal council or the school committee, shall contain a request for passage of a particular measure set forth in the petition and shall be signed by not less than twenty percent of the total number of voters.

Section 8-2 citizen initiative procedures are provided, allowing by means of a petition process, to compel the council to review a particular matter and if the council fails to do so present the matter to the voters.

Signatures to initiative petitions need not be all on one paper. All such papers pertaining to any one measure shall be fastened together and shall be filed in the office of the town clerk as one instrument, with the endorsement thereon of the names and addresses of the persons designated as filing the same. With each signature to the petition, shall be stated the place of residence of the signer, giving the street and number, if any.

Within ten days of the filing of said petition, the registrars of voters shall ascertain by what number of voters the petition is signed, and shall attach thereto their certificate showing the result of such examination.

The town clerk shall forthwith transmit the said certificate with the said petition to the municipal council or to the school committee, as appropriate, and at the same time shall send a copy of said certificate to the persons designated on the petition as filing the same.

When such certificate has been so transmitted, said petition shall be deemed to be valid unless written objections are made with regard to the signatures thereon by a voter within forty-eight hours after such certification by filing such objections with the municipal council or the school committee, and a copy thereof with the registrars of voters. The validity of any objection to certification shall be determined in accordance with the laws of the commonwealth.

(b) Referral to Town Attorney

If the town clerk determines that a sufficient number of signers are voters, the town clerk shall transmit a copy of the petition to the town attorney.

Within fifteen days after receipt by the town attorney of the petition the town attorney shall advise the town clerk in writing whether the measure may be proposed by initiative procedures and whether it may be lawfully passed by the municipal council or the school committee. If the opinion of the town attorney is that the measure may not lawfully be passed, the town attorney shall state the reason or reasons therefor in said reply. The town clerk shall forthwith furnish a copy of the town attorney's opinion to the person designated on the petition as filing the same.

(c) Initiative petition: Requirements for passage and submission to electorate

If any initiative petition is signed by voters equal in number to at least twenty percent of the total number of voters, and in the opinion of the town attorney, such measure may be lawfully passed by the municipal council or school committee, the municipal council or school committee within thirty days after the date of the certificate of the registrars to that effect: (1) may pass said measure without alteration, subject to the referendum vote provided in this charter; or (2) the municipal council shall call a special election to be held on a date fixed by it not less than sixty days but not later than ninety days after the date of the certificate herein before mentioned, and shall submit the proposed measure without alteration to a vote of the voters at that election; provided that if any town election is otherwise to occur within one hundred twenty days after the date of said certificate, the municipal council may, at its discretion, omit the calling of a special election and submit the proposed measure to the voters at such approaching election.

(d) Ballot Question

The ballots used when voting upon a proposed measure under this section shall state the nature of the measure in terms sufficient to show the substance thereof by preparation of a fair, concise summary by the town attorney and approved by the registrars of voters.

The full text of the measure shall be published in a least one local newspaper at least seven days before the election at which the question shall appear on the ballot.

The ballot used when voting upon a proposed measure under this section shall contain the question in substantially the following form:

Shall the following measure which was proposed by an initiative petition take effect?

(Text of measure summary) Yes ____ NO ____

If a majority of the votes cast on the question is in the affirmative the measure shall be deemed to be effective forthwith, unless a later date is specified in the measure.

Section 8-3 Citizen Referendum Procedures - Referendum Petition; Effect on Final Passage

If within ten days after the final passage of any measure a petition signed by voters equal in number to at least five per cent of the total number of voters, and addressed to the municipal council or to the school committee, as the case may be, protesting against such measure or any part thereof taking effect, is filed with the town clerk, the same shall thereupon and thereby be suspended from taking effect; and the municipal council or the school committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded within thirty days the municipal council shall submit the same, by the method herein provided, to a vote of the voters either at the next regular town election, or at a special election which may, in its discretion, be called for the purpose and such measure or part thereof shall forthwith become null and void unless a majority of the voters voting on the same at such election vote in favor thereof. The petition described in this section shall be termed a referendum petition and Section 8-2 (a) shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace "measure" in said section whenever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section.

Section 8-3 citizen referendum procedures are provided, allowing by means of free petition process, to submit a measure approved by the council to the voters for review.

Section 8-4 Required voter participation

For any measure to be effective under initiative or referendum procedure(s), at least twenty percent of the voters shall vote at an election upon which an initiative or referendum question is submitted to the voters.

Section 8-5 Measures not Subject to Initiative and Referendum

Measures which include the following subject matter shall not be subject to initiative or referendum procedures:

(a) revenue loan orders; (b) appropriations for the payment of debt or debt service, (c) internal operational procedures of the municipal council and the school committee; (d) emergency measures; (e) the town budget or any appropriation contained therein or the school committee budget or any appropriation contained therein or the capital improvements program or any item contained therein; (f) appropriation of funds to implement a collective bargaining agreement; (g) procedures relating to election, appointment, removal, discharge or any other personnel action; and (h) proceedings providing for the submission or referral of a matter to the voters at an election.

Section 8-6 Submission of Proposed Measure to Voters

The municipal council may, of its own motion, and shall, upon request of the school committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the voters for adoption or rejection at a general or special town election any proposed measure, or a proposition for the repeal or amendment of any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition.

Any measure adopted pursuant to initiative procedures shall not be subject to amendment or appeal by the municipal council for a period of six months after

the election at which said measure was adopted, unless such measure is contrary to law.

Section 8-7 Measures with Conflicting Provisions

If two or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

Section 8-8 provides procedures for a recall of elected town offices.

Section 8-8 Recall of Elected Officials

(a) Application

Any person who holds an elected town office with more than six months remaining of the term of office for which such person was elected, at the time of the filing of the affidavit may be recalled from the office by the voters in the manner provided in this section. No recall petition may be filed against an officer within six months after taking office.

(b) Recall Petitions

A recall affidavit signed by at least three hundred voters for any officer elected at large and by at least one hundred for any officer elected by district may be filed with the town clerk containing the name of the office whose recall is sought and a statement of the grounds for recall. The board of registrars of voters shall certify such petitions with regard to the sufficiency and validity of the signatures of voters and within five working days following such filing the town clerk shall deliver to the ten persons first named on such petitions, petition blanks demanding said recall, printed forms of which the town clerk shall keep available.

The blanks may be completed by printing or typewriting; they shall be addressed to the municipal council; they shall contain the names of the ten persons to whom they are issued and the grounds for the recall as stated in the affidavit; they shall be dated and signed by the town clerk. A copy of the petition shall be entered into the records kept in the office of the town clerk.

The recall petitions shall be returned to the office of the town clerk within twenty days following the date the blanks are issued, signed by at least twenty percent of the total number of persons who voted at the most recent municipal election for officers elected at large, and, for officers elected by district signed by at least twenty percent of the total number of persons who voted at the most recent municipal election from the district officer sought to be recalled represents.

The town clerk shall forthwith submit the petition to the registrars of voters, and the registrars shall, within five working days, certify thereon the names of the registered voters of the town, or from the district the officer sought to be recalled represents.

(c) Recall election

If the petition shall be found and certified by the town clerk to be sufficient, the town clerk shall submit the same with such certificate to the municipal council within five working days, and the municipal council shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled, and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than 65 days but not more than ninety

days after the date of the town clerk's certificate, provided however, that if any town election is otherwise to occur within one hundred twenty days after the date of said certificate, the municipal council may, at its discretion, omit the calling of a special election and submit the proposed recall to the voters at such approaching election. The recall election for any officer elected by district shall only be held in the district that the officer represents.

If a vacancy occurs in said office after a recall election has been ordered, the election shall not proceed as provided in this section.

(d) Office Holder

The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not recalled, the incumbent shall continue in office for the remainder of the unexpired term subject to recall as before. If recalled, the officer shall be deemed removed and the office vacant. The vacancy created thereby shall be filled in accordance with this charter. Any person appointed to fill the vacancy caused by such recall shall hold office for the unexpired term of the officer recalled.

(e) Ballot Proposition:

The form of the question to be voted upon shall be substantially as follows: "Shall -- here insert the name and title of the elective officer whose recall is sought -- be recalled?" If a majority of the votes cast upon the question of recall is in the affirmative, such elected officer shall be recalled.

No recall election shall be effective unless at least thirty percent of those entitled to vote shall have voted.

(f) Repeat of Recall

In the case of an officer subjected to a recall election and not recalled thereby, no recall petition shall be filed against such an officer for at least six months after the election which the officer's recall was submitted to the voters of the town.

(g) Office Holder Recalled

No person recalled from office or who has resigned from office while recalling proceedings were pending against such person, shall be appointed to any town office within two years after such recall or resignation.

Part IX

*This part is concerned
with a variety of
technical matters and
definitions.*

Part IX General Provisions

Section 9-1 Revision or Amendment of Act

This charter may be replaced, revised or amended in accordance with any procedure made available by Article LXXXIX of the Amendments to the Constitution of the Commonwealth and any laws of the commonwealth enacted to implement said constitutional amendment.

Section 9-2 Severability

The provisions of this charter are severable. If any of the provisions of this charter are held to be unconstitutional, or invalid, the remaining provisions of this act shall not be affected thereby. If the application of this charter, or any of its provisions, to any person or circumstances is held to be invalid, the application of said charter and its provisions to other persons or circumstances shall not be affected thereby.

Section 9-3 Rules of Interpretation

The following rules shall apply when interpreting the charter:

(a) Specific Provisions to Prevail

To the extent that any specific provision of the charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

(b) Number and Gender

Words imparting the singular number may extend and be applied to several persons or things; words imparting the plural number may include the singular; words imparting the masculine gender shall include the feminine gender.

(c) References to General Laws

All references to the general laws or the laws of the commonwealth contained in this charter refer to the general laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the general laws enacted subsequent to the adoption of this act.

(d) Computation of Time

Except as pertaining to the computation of time for elections and open meetings of government bodies, in computing time under this charter, if seven days or less, only business days, not including Saturdays, Sundays, or legal holidays shall be counted; if more than seven days, every day shall be counted.

Section 9-4 Definitions

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in this act shall have the following meanings:

(a) Charter - The word "charter" shall mean this charter and any amendments to it made through any methods provided under Article LXXXIX of the Amendments to the Constitution of the Commonwealth.

(b)Emergency - the word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action.

(c)Town - The word "town" shall mean the town of Amesbury.

(d)Town Bulletin Board - The "town bulletin board" means the bulletin board posted outside the office of town clerk.

(e) Voters - The word "voters" shall mean registered voters of the town as defined by the laws of the commonwealth.

(f) Town agency or agency - The words "town agency" or the word "agency" shall mean any board, commission, committee, department or office of town government, whether elected, appointed or otherwise constituted.

(g)Board, commission, committee or authority - The words "board, commission, or committee" shall mean any board, commission, committee or authority, except advisory boards, committees or commissions appointed by the mayor.

Section 9-5 Board, Committees or Commissions:

Section 9-5 provides general standards for the activities of appointed boards and commissions.

(a) Board, Committees or Commissions, Composition, Term of Office, In General

Except as otherwise provided by this charter, all boards, commissions and committees shall consist of three or more members appointed for terms of three years each, so arranged that the term of one-third of the members, or as nearly the number as may be possible, shall expire each year. All members of board, commissions and committees shall serve without compensation or benefits and shall be sworn into office within four weeks of their appointment. All board, commission or committee members must take the oath of office prior to entering upon the duties of their office.

(b) Uniform Procedures Applicable to Boards, Commissions and Committees

All boards, committees and commissions shall meet regularly at such times and places as they shall determine, but not less than quarterly. Special meetings of any board, commission or committee shall be held on the call of the chair or by a majority of its members, by written notice delivered in hand or to the place of residence of each member and which contains notice of the matters to be acted upon. Except in the case of any emergency, all notices shall be delivered at least forty-eight hours in advance of the time set for such meeting. A copy of such notice shall, forthwith, be posted upon the town bulletin board.

Upon petition signed by at least one hundred voters requesting a special meeting of any board, commission or committee, said board, commissioner committee shall hold a special meeting within fifteen days of notice from the town clerk that a petition has been filed. Any such petition must state the purpose or purposes for which such meeting is requested.

If any member of an appointed board, commission or committee fails to attend one half of the meetings held by such board, committee or commission during a

calendar year, the municipal council may declare the office held by such member to be vacant.

Each board, commission or committee shall determine its own rules of order of business unless another provision is made by ordinance, and shall provide for the keeping of a journal of its proceedings. Such rules and journal shall be available for public inspection and copies shall be maintained by the town clerk and the public library.

If requested by any member, any vote of any board, commission or committee shall be taken by a call of the roll and the vote shall be recorded in the journal provided, however, if the vote is unanimous, only that fact need be recorded.

A majority of the members of a board, commission or committee shall constitute a quorum, but a smaller number may meet and adjourn from time to time.

(c) Multiple Office Holding

No member of a board, committee or commission may serve on another town board, commission or committee, provided however, nothing shall prohibit any member of a board, committee or commission to serve on an ad hoc, temporary advisory committee, or committee established for the purpose of coordinating the exercise of power, duties and responsibilities of respective boards, commission and committees. No town employee may serve on a board, commission or committee unless required by virtue of the office held by said employee.

Section 9-6 Inspection of Documents

All documents cited in this act as available for public inspection shall be maintained in the office of the town clerk and in the public library. The town clerk shall provide copies of documents to the public library.

Section 9-7 requires the publication of ordinances

Section 9-7 Reenactment and Publication of Ordinances

Within one year after the election of the municipal council, it shall cause a review, revision and recodification of town ordinances. After this initial review at five-year intervals thereafter, the municipal council shall cause to be prepared a proposed revision or recodification of all town ordinances which shall be submitted to the municipal council for reenactment. Such revision or recodification shall be prepared by a committee established by the municipal council. Such revisions or recodification shall be prepared under the supervision of the town attorney or if the municipal council so directs by special counsel retained for such purposes. Within eight months following its appointment, the committee shall cause to be published in a local newspaper (a) a report summarizing its recommendations and noting the times and places within the town where complete copies of the report shall be available for inspection by the public, and (b) the date, time and place not less than two weeks following such publication when a public hearing shall be held by the committee on the preliminary report. Copies of the revised ordinances shall be made available for public distribution. In each year between such reenactment and publication an annual supplement shall be published containing all ordinances and amendments to ordinances that had been adopted in the previous year.

Section 9-8 Code of Ethics

The mayor shall prepare and submit to the municipal council a code of ethics which shall be applicable to all elected and appointed officials and employees of the town.

Section 9-8 this section requires the mayor to prepare a code of ethics.

Section 9-9 Periodic Review of the Charter and the Need for Appointed Boards, Committees and Commissions

Five years from the adoption of this charter, and at ten year intervals thereafter, the mayor, subject to the approval of the municipal council shall appoint a special committee to review this charter and make any recommendations deemed necessary. During the course of any such charter review the special committee shall review the purpose and need for each appointed board, committee and commission of the town and shall report any findings and recommendations.

Section 9-9 requires a review of this charter after a five year period and at ten year intervals thereafter. The section also requires a periodic review of the need for all appointed boards and commissions.

Part X

This section is concerned with the orderly transition from the existing government structure to the new form of government.

Part X Transition Provisions

Section 10-1 Continuation of Existing Laws

All ordinances, resolutions, rules, regulations, and votes of the town meeting which are in force at the time this act is adopted, not inconsistent with the provisions of this charter, shall continue in full force until amended or repealed.

Where provisions of this charter conflict with provisions of town ordinances, rules, regulations, orders, and special acts and acceptances of laws of the Commonwealth, the provisions of this charter shall govern. All provisions of town ordinances, rules, regulations, orders and administrative actions not superseded by this charter shall remain in force.

Section 10-2 Existing Officials and Employees

Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform the duties of the office until provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency. No person in the permanent full-time service or employment of the town shall forfeit pay grade or time in service. Each such person shall be retained in a capacity as similar to the person's former capacity as is practical.

Section 10-3 Continuation of Government

All town officers, boards, commissions or agencies shall continue to perform their duties until reappointed or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another town office, board, commission or agency.

Section 10-4 Continuation of Obligations

All official bonds, obligations, contracts and other instruments entered into or executed by or to the town before the adoption of this act, and all taxes, special assessments, fines, penalties, forfeitures incurred or imposed, due or owing to the town, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue and remain unaffected by this act. No legal act done by or in favor of the town shall be rendered invalid by the adoption of this act.

Section 10-5 Transfer of Records and Property

All records, property and equipment whatsoever of any office, board, commission, committee or agency or part thereof, the powers and duties of which are assigned in whole or in part to another town office, board, commission or agency shall be transferred forthwith to such office, board, commission or agency.

Section 10-6 Time of Taking Effect

This act shall become fully effective upon passage in accordance with the following schedule and except as otherwise provided in this section:

(a) A special election to elect the first officers under this charter shall be held July 30, 1996. At such election the voters shall elect a mayor and the municipal council. A preliminary election for the nomination of candidates for the office of

the mayor and municipal councillors shall be held on June 25, 1996. The polls at such special election shall be open from 7:00 AM to 7:00 PM.

Existing six precincts shall be used as council districts. The initial municipal council elected under this charter shall serve a term extending to the organization of town government following the regular town election to be held in November 1999. At such regular municipal election held in November 1999, the municipal council shall be elected and shall take office in accordance with the provisions of this charter.

The first mayor elected under this charter shall serve a term extending to the organization of town government following the regular town election to be held in November 1999. At such regular town election to be held in November 1999, a mayor shall be elected and take office in accordance with the provisions of this charter.

(b) As soon as possible following the election, the town clerk shall call together persons elected to the municipal council and the person elected as mayor for the purpose of taking their oath of office. As soon as members of the municipal council take the oath of office, the municipal council shall choose a president and vice president of that municipal council and to adopt any temporary rules governing the conduct of meeting of the municipal council.

(c) Following the organization meeting of the municipal council, the municipal council shall prepare to assume its full powers, duties and responsibilities which will devolve upon the municipal council under this charter. The municipal council president shall forthwith appoint a committee of the council to develop rules and regulations governing the conduct of council meetings and business. Said committee shall propose such rules and regulations to the municipal council within 30 days after appointment.

(d) The representative town meeting in office at the time of the election shall continue to conduct all the legislative business of the town until the full power of the mayor and municipal council shall become operative. Thirty days after the mayor and members of the municipal council take the oath of office the term of office of all members of the representative town meeting shall terminate and the representative town meeting shall cease to exist and the powers of the municipal council shall become fully effective.

The office of moderator shall cease to exist when the representative town meeting ceases to exist.

(e) The board of selectmen shall continue to be responsible for the general operation and business of town government and shall continue to perform all of the powers, duties and responsibilities of the office until thirty days after the mayor and members of the municipal council take the oath of office; the terms of office of members of the board of selectmen shall terminate and the board of selectmen shall cease to exist and the powers of the mayor shall become fully effective at this time. The mayor shall assume all executive powers, duties and responsibilities held by the board of selectmen. The mayor shall have the right to

attend and participate in all meetings of the school committee but may not vote until a new school committee is organized in January 1998.

(f) The office of town manager shall continue to serve until the powers of the mayor become fully effective at which time the office of town manager shall cease to exist. The mayor shall assume all administrative responsibilities of the office of the town manager. The incumbent in the office of town manager, if any, at the time the mayor assumes all powers under this charter shall continue to be employed by the town as the chief financial officer established in accordance with Section 6 of this charter, for a period of not less than six months.

(g) The initial salary of the mayor shall be \$50,000 per year. The initial salary of members of the municipal council shall be \$1,200 per year, provided that the president of the municipal council shall receive \$1,500 per year.

(h) The mayor shall appoint forthwith, a liquor licensing commission established under Section 6-4 of this charter.

(i) Until such time as another form of organization is provided for in accordance with Section 6-1 of this charter, there shall continue to be a trust commission. Incumbents serving as members of the hospital trust commission shall continue to serve for the balance of the terms of office for which they were elected. Upon the expiration of the terms of office of members of the hospital trust commission, or if a vacancy shall sooner occur, the officers shall be appointed by the mayor.

(j) The mayor shall review the organization of town government and shall prepare an executive reorganization plan in accordance with section 6-1 of this charter. The mayor shall submit the executive reorganization plan to the municipal council within eighteen months after the initial election of a mayor, as provided for in this charter. The mayor shall give careful consideration to the organization of economic development functions in the town and the streamlining of the local permitting processes.

(k) At the first regular municipal election held under this charter, in November 1997, the town shall elect: six members of the school committee; nine members of the board of library trustees; seven members of the planning board; and four members of the housing authority.

(i) The school committee shall remain as currently constituted until a new school committee is elected and takes office in January 1998 in accordance with provisions of this charter. The incumbents in the office of school committee member elected to office in April 1996 shall continue to serve until the new school committee is organized, at which time their term of office shall terminate. The incumbent in the office of school committee whose term expires in April 1997 shall have said term of office extended until the organization of the new school committee, at which time any such term of office shall terminate. The remaining incumbents in the office of school committee shall continue to serve until the organization of the new school committee, at which time their terms of office shall terminate. At such regular town election the three candidates receiving the highest number of votes shall be elected to serve a term of four years and the other three

candidates elected shall be elected to serve a terms of two years and thereafter upon the expiration of said terms of office candidates shall be elected for terms of four years in accordance with provisions of this charter.

(ii) At the regular town election to be held in November 1997, the town shall elect nine members of the board of library trustees. The board of library trustees shall remain as currently constituted until a new board of library trustees is elected and takes office in January 1998. The incumbent members of the office of board of library trustees elected to office in April 1996 shall continue to serve until the new board of library trustees is organized, at which time their terms of office shall terminate. The incumbent members in the office of board of library trustees whose terms expires in April 1997 shall have the term of office extended until the organization of the new board of library trustees in January of 1998. The remaining incumbent members of the office of board of library trustees shall continue to serve until the organization of the new board of library trustees in January 1998, at which time their terms of office shall terminate. At such regular town election the five candidates receiving the highest number of votes shall be elected to serve a term of four years and the other four candidates elected shall be elected to serve terms of two years and thereafter upon the expiration of said terms of office candidates shall be elected for terms of four years in accordance with provisions of this charter.

(iii) At the regular town election to be held November 1997, the town shall elect seven-member planning board. The board of planning board shall remain as currently constituted until a new planning board is elected and takes office in January 1998. The incumbent in the office of planning board member elected to office in April 1996 shall continue to serve until the new planning board is organized January 1998, at which time the member's term office shall terminate. The incumbent in the office of planning board whose term expires in April 1997 shall have the term of office extended until the organization of the new planning board in January 1998, at which time said term of office shall terminate. At such election the four candidates receiving the highest number of votes shall be elected to serve a term of four years and the other three candidates elected shall be elected to serve terms of two years and thereafter upon the expiration of said terms of office candidates shall be elected for terms of four years in accordance with provisions of this charter.

(iv) At the regular town election to be held in November 1997, the town shall elect four members of the housing authority. At such municipal election the two candidates receiving the highest number of votes shall be elected to serve a term of four years and the other two candidates elected shall be elected to serve a term of two years and thereafter upon the expiration of said terms of office candidates shall be elected for terms of four years in accordance with provisions of this charter. The incumbent elected members of the housing authority shall have their terms of office extended to or terminated in January 1998, and thereafter upon the expiration of said terms of office candidates shall be elected for terms of four years in accordance with provisions of this charter.

NOTES